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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, No. CR 05-0324 MMC
12 Plaintiff,
13 v.
14 DENNIS CYRUS, JR.,
15 Defendant

**ORDER RE: DEFENDANT'S MOTION
FOR RECONSIDERATION**

17 The Court is in receipt of defendant Dennis Cyrus's Motion for Reconsideration of
18 Order Re Taint Team, filed September 17, 2008, and by which said defendant seeks
19 reconsideration of the Court's September 17, 2008 Order Re: "Taint Team" Appointment
20 and Procedures.¹ Having read and considered the motion, the Court rules as follows.

21 Defendant first seeks reconsideration of the appointment of a Taint Team consisting
22 of two attorneys from the Criminal Division of the United States Attorney for the Northern
23 District, as opposed to appointment of attorneys located in another District. As defendant
24 observes, such objection was considered and overruled at the hearing conducted on

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26 ¹The subject order appoints a "Taint Team," consisting of Douglas Sprague and
27 Christine Wong, and sets forth restrictions applicable to "all documents, records and
information disclosed by the defendant to the Taint Team that relate to Rule 12.2
28 examinations of the defendant, as well as all documents, records and information obtained
or developed by any expert working with the Taint Team regarding the Rule 12.2
examination of defendant." (See Order at 2:6-12.)

1 September 2, 2008 hearing. Having further considered the matter, the Court finds no
2 grounds exist for reconsideration of such determination. Accordingly, to the extent
3 defendant's motion is based on such objection, the motion is hereby DENIED.

4 Defendant next seeks reconsideration of a portion of the following provision in the
5 Court's order: "The documents, records, and information shall be disclosed only to (i) the
6 Taint Team; (ii) additional individuals in the United States' Attorney's Office other than the
7 Northern District and in the Department of Justice in Washington, D.C. not connected to the
8 trial team, provided such disclosure is first approved by the Court as necessary to assist
9 the Taint Team in this case; and (iii) any expert(s) working with them." (See Order at 2:13-
10 17.) Specifically, defendant objects to inclusion of subsection (ii) of the above-quoted
11 provision because, defendant argues, subsection (ii) does not "require the Government to
12 apply to [the Court] to expand the taint team as a condition precedent to any discussion
13 internal to the Government about taint team issues." (See Def.'s Mot. at 5:5-6.)² The
14 above-quoted provision, however, cannot be reasonably interpreted in the manner
15 suggested by defendant. Rather, the express terms of the provision prohibit the Taint
16 Team from disclosing any of the referenced "documents, records and information" to any
17 other individual in the United States' Attorney's Office or Department of Justice unless such
18 disclosure is "first approved" by the Court. Consequently, discussions concerning "taint
19 team issues" cannot occur in the absence of prior approval by the Court, as such "issues"
20 would necessarily involve the type of "information" that is the subject of the Court's
21 September 17, 2008 order. Accordingly, defendant's motion, to the extent it seeks
22 reconsideration of the above-quoted provision, is hereby DENIED.

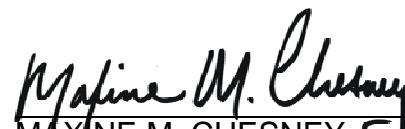
23 Finally, defendant requests the Court add five new provisions to the September 17,
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25 ²A different, more broad version of subsection (ii) was proposed by the Government
26 in a notice filed September 11, 2008. Defendant asserts the Court issued its September
27 17, 2008 order before defendant had an opportunity to respond to the Government's
28 proposal. The Court had expected the parties to meet and confer on the form of a proposed order before the parties submitted a joint or separate proposals. In any event, the Court delayed issuance of an order until six days after the Government had submitted its proposal, thus leaving ample opportunity for defendant to file any response thereto.

1 2008 order. (See Def.'s Mot. at 2:27-3:17.) Given such provisions are being proposed for
2 the first time by the instant motion, the Court hereby DIRECTS the parties to meet and
3 confer, no later than October 3, 2008, regarding the propriety of adding such additional
4 provisions. Further, no later than October 7, 2008, the parties are DIRECTED to file a
5 jointly proposed Amended Order Re: "Taint Team" Appointment and Procedure, or, in the
6 event the Government objects to inclusion of one or more of the newly-proposed additional
7 provisions, a Joint Statement setting forth the parties' respective positions, along with any
8 separately-proposed amended order(s).³

9 **IT IS SO ORDERED.**

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11 Dated: September 25, 2008


MAXINE M. CHESNEY
United States District Judge

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³Defendant's agreement to the form of a proposed Amended Order or submission of
28 a separately-proposed Amended Order will not be considered a waiver of defendant's
previously-stated objections to any part of the Order Re: "Taint Team" Appointment and
Procedures.